

Modular Ordinance

State of Tennessee

Division of Forestry

The Division of Forestry has prepared his modular ordinance in the attempt to help the communities of Tennessee achieve this status and to meet their specific tree program needs. The modular approach will provide some options, for the city to select as it prepares its ordinance. Articles that will be addressed include definitions, administrative control of tree programs, tree management activities to be regulated, and provisions for enforcement. Optional sections regulating the tree care profession and control of vegetation removal in developments are also included.

The purpose of a tree ordinance is to provide a mechanism for the management of trees and woody vegetation in a city or town. Since establishment of an ordinance is one of the requirements for Tree City USA recognition, the city of \_\_\_\_\_ hereby establishes this ordinance.

Article I. Definitions

The following definitions are suggested for inclusion in a city tree ordinance.

1. Tree - a woody plant with a single trunk, or multiple trunk capable of growing to a height of 15 feet or more.

2. Shrub - a woody plant with a multiple stem capable of growing to a height of up to 15 feet.

3. Public tree - a tree growing in an area owned by the community, including parks, public buildings, schools, hospitals, and other areas to which the public has free access.

4. Private tree - a tree growing in an area owned by a private individual, business or commercial establishment, company, or industry, private institution, or other area not owned by government entities.

5. Street tree - a tree growing within a public right of way along a street, in a median or in a similar area in which the public right of way borders areas owned by private individuals.

6. Public utility - that section of local government in charge of electrical distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.

7. City forester - a city employee responsible for the city's tree program. He/she may also be titled Urban Forester, City Arborist, Municipal Forester, or Tree Warden.

8. Pruning - selective removal and thinning of the upper portions of the tree, taking into account the shape and natural structure of the tree.

9. Topping - arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.

10. Crownsread - the distance from the ends of branches on one side of the tree, through the trunk, to the ends of the branches on the other side.

11. Line Clearance - removal of limbs and branches growing within a set distance of electrical distribution lines.

12. Tree Density Factor - a number derived from the combination of the density of trees remaining on a site and the density of additional trees to be planted.

13. Other definitions may be required by a particular city's unique situation.

#### Article IIA. Administration Option 1

Several options exist for cities and towns to successfully administer a tree program. The most common and practical is the establishment of a tree board. The following sections are recommended for establishment of a tree board.

Section 1 - Creation of a Tree Board - There is hereby created a Tree Board for this city, which shall consist of seven members (more or less if the city chooses) who are citizens and residents of this city. Members shall be

appointed by the mayor and approved by the governing council. (NOTE: Depending on expertise available, this section may specify that one or more members of the board be representatives of institutions that deal with and have expertise about trees, such as colleges, government agencies, etc.)

Section 2 - Term of Office - Members shall serve three year terms, except the first board which will have two (2) members appointed for one year and three (3) members appointed for two years, and two members appointed for three years. (Numbers need to match the numbers of members in section one.) Members may serve successive terms. Vacancies are filled by appointment by the Mayor until the end of the term.

Section 3 - Operation - The Board shall choose its own officers, make its own rules and regulations, and keep a record of its proceedings. Copies of the minutes shall be available to the governing body after each Tree Board meeting. Meetings shall be held quarterly, or more often if called by the Chairman of the Board. A majority of the members shall constitute a quorum for transaction of business.

Section 4 - Duties and Responsibilities - The duties of the Tree Board shall include, but not be limited to the following:

- a. Prepare a tree plan for the community
- b. Coordinate tree-related activities
- c. Conduct an Arbor Day Ceremony
- d. Provide tree information to the community
- e. Maintain a recommended tree list for the community
- f. Recognize groups and individuals completing tree projects
- g. Coordinate publicity concerning trees and tree programs
- h. Coordinate donations of trees or money to purchase trees
- i. Adopt rules and regulations pertaining to the tree program.
- j. Perform other tree related duties and opportunities that arise from time to time

Section 5 - Compensation - Members of the Board shall serve without compensation., (NOTE: Most cities do not pay their tree board members.)

Article IIB. Administrative Option 2

Some cities may elect to hire a professional city forester. If so, it is recommended that the Tree Board be retained as an advisory board, but that its duties (Section 4 above) be revised to reflect any needed changes.

Sections pertaining to hiring a city forester -

Section 1 - Appointment - The City Forester shall be appointed by the tree board (if it exists) and the public works or park and recreation director, after completion of a competitive review process. Upon satisfactory completion of the city's probation period, the person shall hold office as long as the duties are performed satisfactorily. The City Forester shall through education and experience be skilled and trained in the art and science of municipal arboriculture.

Section 2 - Compensation - The City Forester shall receive a salary commensurate with this training and experience, plus any other benefits that municipal employees at that position level may receive.

Section 3 - Duties - The duties of the City Forester shall include but not be limited to the following:

- a. plant, maintain, and remove trees under his jurisdiction
- b. coordinate all tree activities with other agencies, organizations and groups in the city
- c. provide information and public relations to citizens and groups in the city regarding trees
- d. maintain a recommended tree species list

- e. gather information and publish reports as needed  
about the city tree resource
- f. respond to complaints about tree problems
- g. prepare long range and annual plans for city  
trees
- h. perform other tree related duties

There are other options that a city may consider that will result in a strong urban forestry program. City horticulturists, and/or tree committees of beautification boards may be assigned the responsibility of overseeing the Tree Program. If so, such groups must recognize that forestry is unique and has special needs if the community is to benefit from its tree program.

#### Article IIIA. Tree planting Option 1

Ordinances generally contain guidelines governing tree planting. One ordinance option is to broadly state planting requirements and leave details to the rules and regulations adopted by the Tree Board/City Forester. In all options, it is recommended that lists of tree species NOT be incorporated into the ordinance. Lists should be formulated by the Tree Board where flexibility for updating is greatest.

Section 1 - Tree planting shall be undertaken by the city on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting function shall be determined by the Tree Board/City Forester.

Section 2 - Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The Tree Board/City Forester will provide information about species, planting techniques, and placement guidelines when requested by residents.

Article III.B. Tree Planting Option 2

The following sections provide a detailed outline of planting requirements. If they are not included in the ordinance, they should be adopted as rules and regulations of the Tree Board.

Section 1 - Size - All trees in public areas capable of reaching a mature height greater than 30 feet shall be at least 1 1/4" diameter (at 6" height) and 8 to 10 feet tall at time of planting. Small maturing trees, between 15'- 30' at maturity, shall be 5' - 6' tall at planting.

Section 2 - Grade - Trees to be planted shall be free of insects and diseases, mechanical injuries, and have reasonably straight trunks with a strong leader branch. Balled and burlapped trees shall be required where bare root trees cannot be handled and stored properly prior to planting.

Section 3 - Spacing - Large trees capable of achieving more than 45 feet in height should be spaced at least 40 feet apart. Medium trees capable of achieving 30-45 feet should be spaced 30 feet apart. Small trees capable of

achieving 15 - 30 feet of height should be spaced at 20 feet intervals. Exceptions may be granted by the Tree Board/City Forester when a valid landscape plan is followed, or when greater or lesser spacings are needed to achieve a desired effect.

Section 4 - Planting near existing objects - Only small trees are permitted to be planted within 10 feet of utility lines. In street plantings, no tree may be planted closer than 10 feet to a fire hydrant, or utility pole or street light, 15 feet to a driveway/street intersection, or 30 feet from street/street intersections. When planting between sidewalks and curbs, 6 feet between curb and sidewalk is the minimum distance required for small trees, 8 feet for medium trees, and 10 feet for large trees.

Section 5 - Planting Techniques - Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least 12 inches larger than the diameter of the root ball or root system. The depth of planting should be at the same level as the tree had grown previously. Backfill should be the same material that was removed from the hole, with no additives except low nitrogen fertilizer which may be added if the Tree Board/City Forester deems it necessary. Holes dug by power augers must have their sides chipped by a hand shovel to break glazing effected by the auger. Trees may be guyed in windy areas, or other areas

where support is determined necessary by the Tree Board/City Forester. All guy wires shall be removed within 18 months.

Article IIIC. Replacing Trees Lost To Development

In areas where land use is changing (zoning), such as in developments, the city may want to require private landowners to plant trees where large numbers of natural trees are lost. Since this activity is closely related to tree removal and is often controversial, it is dealt with in the article on Land Use Changes (see page 15).

Article IVA. Tree Care Option 1

Ordinances generally have one or more sections dealing with tree care and maintenance. As in Article III, there is the option of including a broad statement about tree care, or outlining detailed sections about maintenance.

Section 1 - Tree maintenance may include pruning, fertilizing, watering, insect and diseases control or other tree care activities. The City shall take responsibility for those maintenance activities needed to keep the public trees reasonably healthy and minimize the risk of hazard trees could cause to residents and visitors of the City. Determination of maintenance needs will be made by the Tree Board/City Forester. Tree care may be accomplished by city personnel or by contract with commercial tree care companies.

Section 2 - Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The Tree

Board/City Forester will provide information in a timely manner to residents about all aspects of tree care including the latest techniques and procedures currently being practiced.

Section 3 - The practice of tree topping is prohibited on all public trees and is strongly discouraged as a tree care practice for private trees. Proper pruning with branch removal at branch or trunk junctures is the best practice for limb removal.

Article IVB. Tree Care and Protection Option 2

A number of other options may also be included in a tree care section. For instance, certain specifications about pruning, fertilization, or specific insect or disease problems may be included.

Section 1 - Trees growing along side streets and sidewalks must be pruned free of limbs to a height of 8 feet for sidewalks and 12 feet for streets.

Section 2 - The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts. Large limbs and branches will be pre-cut to prevent excessive peeling of the bark, followed by cutting the remaining stub.

Section 3 - Fertilization. of trees will be accomplished when the Tree Board/City Forester determines a tree is deficient

in nutrients. Determination is made by leaf color or size, twig growth, soil test, or other diagnostic methods. Fertilizer will be applied on the soil surface at the appropriate time of year.

Section 4 - Because of the special significance of the dogwood tree (this could also apply to oak, elm, crabapple or any species of tree) to the City, the Tree Board/City Forester will inspect trees for dogwood borer (or other insect or disease problems) and effect treatment where infestation has occurred at the appropriate time of year. The Tree Board/City Forester shall also give notice to owners of private infested trees and upon receiving such notice shall be required to effect treatment of affected trees growing on their property.

Section 5 - Extensive root system damage to public trees is prohibited. Grade changes and trenching within the crown spread (ends of branches) is prohibited without permission of the Tree Board/City Forester. Owners of private trees are encouraged to consult the Tree Board/City Forester before proceeding with these activities.

#### Article V. Tree Removal Option 1

Tree removal is the third component of a city tree program, and is as important for health and safety as it is for esthetics.

Section 1 - Dead and dying trees that pose a safety or health risk to residents or to other trees shall be removed in a timely manner. This section will apply to both public and private trees. The Tree Board/City Forester will make the risk determination, and if appropriate, will cause the tree to be removed. If the tree is on private property, the tree board/city forester will serve notice of said risk, and give an allowed time for said removal.

Section 2 - Upon receipt of notice to remove, the owner may appeal the decision within 15 days (or next meeting) to the City Council/Board of Aldermen.

Section 3 - Stump removal to below ground level is considered part of the tree removal process.

Article VB. Removal Option 2

Section 1 - Dead trees, and dying trees on public property that pose a safety or health risk to residents or to other trees will be removed. Upon inspection by the Tree Board/City Forester, those trees on public property found to be dead, and those found to be dying that pose a safety or health risk to residents or other trees shall be removed in a timely manner.

Section 2 - The Tree Board/City Forester will upon finding dead or dying trees on private property, notify the landowner of such tree and encourage the landowner to remove said tree.

Article VI. Special Considerations

Section 1 - Tree topping of all public trees is prohibited, and topping of private trees is strongly discouraged. The Tree Board/City Forester shall promote the use of proper pruning procedures.

Section 2 - Tree pruning in the vicinity of power lines shall be undertaken by the public utility to assure the supply of electricity to its customers. Drop crotch pruning and pruning to laterals are the required methods. Where possible, the utility shall undertake a program of replacing large trees with small maturing ornamental trees of the kind recommended by the Tree Board/City Forester.

Article VII. Licensing of Arborists and Tree Surgeons

Section 1 - All individuals and firms conducting tree care and removal activities for compensation shall be required to have an arborist license. Such license shall be issued by the Tree Board/City Forester upon satisfactory completion of a test of tree knowledge and proof of a minimum of \$100,000

of liability insurance. Firms existing at the time the ordinance is adopted may be waived from the testing requirement, provided they apply for said license within 90 days of adoption of this ordinance.

(Note: Satisfactory completion of a test usually means a passing score of 70%. Insurance requirements will vary; \$100,000 may not be adequate.)

Article VIII.        Protection from Construction,  
   Developments and Land Use Changes Option 1

Section 1 - As it pertains to commercial and residential development, the city maintains that it is in the best interest of all concerned to save as many existing trees as practical. In this interest, developers/builders will develop tree impact plans prior to removal of any tree from the project sites. Said plans will be submitted to the Tree Board/City Forester for approval.

Section 2 - Impact plans will include general locations of trees to be removed, and areas of trees that will be retained. Plans will also indicate the general layout of roads, utilities, parking areas for vehicles, storage areas for construction materials, and other items that disturb or compact the soil in tree root zones.

Section 3 - To adequately protect trees to be preserved, the plan shall also include proposed grading work and subsequent erosion control measures to prevent siltation over the roots of trees that will remain.

Section 4 - The plan will also outline additional landscape trees that need to be planted to bring the finished project up to the desired vegetation level. To allow the developer maximum flexibility, the Tree Board/City Forester will apply a fixed formula that balances the number and size of trees preserved with the number and size of trees replanted in order to retain a desired density factor.

Section 5 - All trees on publicly owned property or private construction sites near any excavation or construction activity shall be guarded by a 4 ft. high (min.) fence at a distance from the trunk equal to the crown spread of the tree. The fence shall be identified as a tree protection zone and no building material, dirt, or other debris, or any vehicles shall be allowed inside the barrier.

Article VIIIA.

Protection Option 2

The following section may be included by cities who wish to include a formula for determining the density after development. If it is used, Section 4 of Article VIII would need to be revised.

Section 4 - Existing and replacement trees will be located so that each acre of the project will come as close as possible to the 15 units of tree density per acre. However, some projects may be more adaptable to clustering existing and replacement trees. In all cases, however, the tree unit density of existing and replacement trees must be a minimum of 15 times the acreage of the development.

Article IX. Appeal and Penalties

Section 1 - Any person dissatisfied with the decisions, rules, regulations, and interpretations of the Tree Board/City Forester, shall have right to appeal to the Board of Alderman/City Council. Appeal shall be within 30 days and shall be made in writing.

Section 2 - Any person violating this ordinance shall be deemed guilty of a misdemeanor, and according to the laws of the State of Tennessee shall be fined a maximum of \$50.00. Each subsequent day that any violation continues unabated shall constitute a separate offense.